

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

Elmer Varner, :  
 :  
Plaintiff, :  
 :  
v. : Case No. 2:08-cv-0398  
 :  
 : JUDGE SARGUS  
Michelle Viets, et al., :  
 :  
Defendants. :

ORDER

By order dated May 1, 2008, plaintiff, a “prisoner” as defined in 28 U.S.C. §1915(h), was directed to either pay the \$350.00 filing fee or submit a properly-completed *in forma pauperis* application within 30 days. The plaintiff was instructed that, if he did not, the Court would presume that he is able to pay the fee, would assess the fee, and would dismiss the case for failure to prosecute. Plaintiff has not submitted a properly completed *in forma pauperis* application. Consequently, the \$350.00 filing fee is assessed against the plaintiff and this case is dismissed for failure to prosecute. See In re Prison Litigation Reform Act, 105 F.3d 1131, 1132 (6<sup>th</sup> Cir. 1997).

Date: 3-11-2009



Edmund A. Sargus, Jr.  
United States District Judge